



12 December 2024

Tēnā koe

### **Official Information Act request**

Thank you for your email of 14 November 2024 to Linda Fergusson, Manager Client Service Operations, Hawera Community Link and your further request for information, received 25 November 2024, which were forwarded to the Ministry of Social Development's (the Ministry's) Official Information Team. You ask how an inheritance or funds from a Testamentary Trust may affect a person's eligibility for the Supported Living Payment (SLP).

I have considered your request under the Official Information Act 1982 (the Act). Please find my response on each part of your request set out below.

- *I urgently require information regarding the Ministry of Social Development's (MSD's) rules around Testamentary Trusts and how they impact someone in receipt of a Supported Living Payment Benefit and Disability Allowance*

The SLP is an income-tested benefit, which means that any income the recipient receives from a trust or estate will be charged against their benefit and may affect their SLP rate. The Ministry's operational guidelines for how money received from an estate or will may impact a person's benefit payments is available online here: [www.workandincome.govt.nz/map/income-support/core-policy/income/types-of-income/estate-income-and-wills.html](http://www.workandincome.govt.nz/map/income-support/core-policy/income/types-of-income/estate-income-and-wills.html).

Payment(s) received from a trust or estate can be considered capital payments (not considered income and will not affect the benefit amount they receive), income payments (chargeable as income), or a combination of both. Ministry staff will assess which type a payment is as part of the income-charging process.

If someone receives a main benefit, such as the SLP, their Disability Allowance (DA) will not be income-tested. However, their DA is income-tested if they do not receive a main benefit, and in these circumstances, any income they receive from an estate or trust will be considered income. You can find information about income-testing for the DA and income limits for receiving the DA here:

[www.workandincome.govt.nz/map/income-support/extra-help/disability-allowance/income-test-01.html](http://www.workandincome.govt.nz/map/income-support/extra-help/disability-allowance/income-test-01.html) and here: [www.workandincome.govt.nz/map/deskfile/extra-help-information/disability-allowance-tables/disability-allowance-rates-19/disability-allowance-income-limits-current.html](http://www.workandincome.govt.nz/map/deskfile/extra-help-information/disability-allowance-tables/disability-allowance-rates-19/disability-allowance-income-limits-current.html).

- *Does income, if any, generated by a Testamentary Trust impact the beneficiary receiving the Supported Living Benefit and Disability Allowance? and to what extent? How is this calculated?*

As outlined above, income a person receives from an estate or trust can impact the rate of the SLP they are paid. Income may be charged either weekly or annually.

A client who has their income charged weekly can receive income of up to \$160 gross per week before their SLP rate begins to reduce (abate). This is called the income abatement threshold.

The following rules apply to SLP clients who receive income of over \$160 gross per week:

- income received between \$160 and \$250 gross per week - their benefit will be reduced by 30 cents for each \$1.00 of income.
- income received over \$250 gross per week - their benefit is reduced by 70 cents for every \$1.00 of income.

You can find further information about this online here: <https://www.workandincome.govt.nz/map/income-support/main-benefits/supported-living-payment/charging-income-01.html> and here: [www.workandincome.govt.nz/map/deskfile/main-benefits-cut-out-points/supported-living-payment-cut-out-points-current.html](http://www.workandincome.govt.nz/map/deskfile/main-benefits-cut-out-points/supported-living-payment-cut-out-points-current.html).

In addition, some SLP clients are eligible for a personal earning exemption of up to \$20 gross per week. This exemption applies to income earned from the client's personal effort (work completed by the client). Income from an estate does not fall within this personal earnings exemption.

- *If a beneficiary in receipt of a Supported Living Payment Benefit and the Disability Allowance receives an inheritance, what are the Ministry's rules around this?*
- *Is there a maximum amount a beneficiary in receipt of a Supported Living Payment Benefit and Disability Allowance (DA) can receive from an inheritance before it impacts on their MSD benefit and what amount?*

Please refer to information provided above about the income abatement threshold.

If a SLP client receives an inheritance as a one-off payment, the Ministry would need to assess whether the payment is a capital payment or income (refer to response to question 1 above). If it is determined to be a capital payment, it would not be considered income. However, any income earned from the capital payment would be considered income (eg interest).

- *Does a Testamentary Trust exempt a MSD client who is in receipt of a Supported Living Payment Benefit and Disability Allowance from receiving additional supports?*

The fact that someone who receives the SLP or a DA also receives income from a trust, does not mean they are ineligible for additional support from the Ministry. However, most benefits or supplementary assistance are income and/or cash asset tested. Therefore, if the total income a client receives from other sources (such as payments from a trust or an estate) exceeds the relevant income or cash asset threshold, their entitlement to additional assistance will be impacted.

- *If there is MSD debt owed at the time of death from an Estate, will this be recovered, regardless of a beneficiary of the Estate being vulnerable?*
- *Is debt recovery at the discretion of individual MSD offices?*

The Ministry has a legislative duty to take all reasonable steps to recover debt, with discretion only in determining the method and the rate of recovery, or in some cases temporarily deferring recovery of debt.

This recognises that welfare assistance is a form of public expenditure and when debts are established, it is the Ministry's responsibility to recover those debts.

If a debt has been established during the client's lifetime and was either not recovered, or not recovered in full before their death, the money is owed by the client's estate.

If there are insufficient funds in the estate, the remaining debt may be written off.

You can find more information about client debt at the following link: [www.workandincome.govt.nz/map/income-support/core-policy/current-client-debt/index.html](http://www.workandincome.govt.nz/map/income-support/core-policy/current-client-debt/index.html).

It is also important to note that the Ministry is committed to supporting people to manage their debt in a sustainable way. This may mean suggesting clients reduce the amount of their debt repayments if they appear to be overextending themselves or suspending debt recovery until the client is in a better position to make repayments.

I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact [OIA\\_Requests@msd.govt.nz](mailto:OIA_Requests@msd.govt.nz).

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or 0800 802 602.

Ngā mihi nui

pp.



Magnus O'Neill  
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